

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division**

JASON LEON DIEDRICH,

Plaintiff,

CIVIL ACTION NO. 4:15cv2

**THE CITY OF NEWPORT NEWS,
VIRGINIA, et. al.,**

Defendants.

AMENDED ORDER

Before the Court is Plaintiff's Motion to Stay Order on Motion for Attorney Fees, ECF No. 24. On May 19, 2016, the Court denied the Motion through the electronic filing system (ECF No. 28). This Order further elucidates the Court's reasoning.

On August 11, 2015, the Court Granted Defendants' Motion to Dismiss. ECF No. 12. Subsequently, on March 31, 2016, the Court granted Defendants' Motion for Attorney Fees and awarded fees in the amount of \$10,260. ECF No. 22. Plaintiff now moves this Court for a stay of the award of attorney fees pending Plaintiff's appeal to the United States Court of Appeals for the Fourth Circuit ("Fourth Circuit").

The parties concede that motions to stay are disfavored in the Fourth Circuit, and that the Court must consider the following four factors: "1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; 2) whether the applicant will be irreparably injured absent a stay; 3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and 4) where the public interest lies." *Nken v. Holder*, 556 U.S.

418, 434 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)). The burden of establishing support for each factor falls on the Plaintiff. *Long v. Robinson*, 432 F.2d 977, 979 (4th Cir. 1970).

Each of the four *Nken* factors militates against a stay. First, as the Court articulated in the Memorandum Opinion and Order awarding fees, “[p]laintiff in this action simply sought to raise again issues that had been previously raised...Plaintiff’s case is the very definition of frivolous, unreasonable, and without foundation.” ECF No. 22 at 6. The Court therefore concludes on the first factor that the applicant has not made a strong showing that he is likely to succeed on the merits. Second, there is no irreparable injury to the Plaintiff absent a stay. Should the Plaintiff succeed in his appeal, Defendant will simply make payment to the Plaintiff as ordered by the Court. Third, a stay will substantially injure the Defendants, as they have been defending cases against this Plaintiff for years and they are lawfully entitled to a just conclusion to this litigation. Fourth and finally, the public interest lies in the federal courts’ dockets being expeditiously addressed. All cases that come before the Court deserve serious care and consideration—over the years, this Plaintiff has been given so much more. The Court finds it absolutely inappropriate to grant a stay, and for these reasons Plaintiff’s motion is **DENIED**.

The Clerk is **DIRECTED** to send a copy of this Memorandum Opinion and Order to counsel for the parties.

IT IS SO ORDERED.

Norfolk, Virginia
May 19, 2016



Raymond A. Jackson
United States District Judge